

REMARKS

Claims 1-28 are pending in the Application. Claims 1-18 and 28 are withdrawn. Claims 21-23 are rejected under 35 U.S.C. §101. Claims 19-27 are rejected under 35 U.S.C. §103(a). Applicants address these rejections below.

I. REJECTIONS UNDER 35 U.S.C. §101:

The Examiner has rejected claims 21-23 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. Office Action (7/25/2008), page 2. In particular, the Examiner states that claim 21 is directed to a method and uses "means for" language directed to a system. *Id.* As indicated above, Applicants removed the "means for" language in claims 21 and 22. Accordingly, Applicants kindly request the Examiner to withdraw the rejections under 35 U.S.C. §101.

The amendments made to claims 21 and 22 were to correct typographical mistakes and to expedite the prosecution of this case. The amendments were not made to overcome prior art. Hence, no prosecution history estoppel arises from the amendments to claims 21-22. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 21-22 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. See *Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

II. REJECTIONS UNDER 35 U.S.C. §103(a):

The Examiner has rejected claims 19-27 under 35 U.S.C. §103(a) as being unpatentable over Hirth et al. (U.S. Patent Application Publication No. 2003/0171962) (hereinafter "Hirth"). Applicants respectfully traverse these rejections and file a Notice of Appeal concurrently herewith. Applicants will specifically provide the reasons for traversal in Applicants' Appeal Brief.

Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

WINSTEAD P.C.

Attorneys for Applicants

By:

Robert A. Voigt, Jr.
Reg. No. 47,159

P.O. Box 50784
Dallas, TX 75201
(512) 370-2832

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